June 12, 2019

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Dodaro:

We write regarding the growing public concern about food contamination by chemical substances in our food supply, and to request the Government Accountability Office (GAO) conduct a comprehensive investigation in the adequacy of the current level of federal oversight.

Chemical contamination of food can occur as a result of broader environmental contamination as well as through food processing and packaging. At the federal level, Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA) share responsibility for regulating the use of potentially harmful chemicals that may come into contact with food. EPA has responsibility for regulating toxic chemicals in general, including those that may be present at limited levels in food packaging. FDA has responsibility for prescribing the conditions under which an indirect food additive may be safely used in food packaging.

According to FDA, there must be "sufficient scientific information to demonstrate that the use of a substance in food contact materials is safe under the intended conditions of use before it is authorized for those uses." FDA operates a notification program for indirect food additives. Once notified of a company's determination that a new substance is safe and the company's intent to use it in a product, FDA has 120 days to object to that use or to issue a letter indicating it has no objection. If FDA does not object, the company may market the product. However, the company may also market the product if FDA does not respond within the allotted 120 days, meaning some products may be entering the market without FDA review.

For example, packaging and other materials that food contacts contain specific types of chemicals, including bisphenols, which are used in the lining of metal cans for canned food products; perchlorates, an antistatic agent that is used in plastic packaging[1]; perfluoroalkyl substances (PFAS), which are used in grease-proof paper and packaging; and phthalates, which are used to make plastic packaging.[2] Trace amounts of these chemicals that are present in food as

[1] Perchlorates are a component of rocket fuel that are used in plastic food packaging and processing equipment (such as conveyor belts) for dry foods, such as cereals, flours, and spices, to reduce the buildup of static charges.

[2] Phthalates are widely used in plastics, rubber, coatings, adhesives, sealants, printing inks, and fragrance. They are industrial chemicals used to soften plastics and are used as solvents, in adhesives and in ink on

a result of its packaging, storage, or other handling are called indirect food additives.[3] Phthalates, for example, can migrate into food products during processing, packaging, and preparation. Exposure to these chemicals may have adverse health effects, depending on the level of exposure.

Recently, FDA released the results of testing the agency conducted on PFAS contamination in food[4]. FDA's limited analysis detected levels of PFAS in 14 out of 91 food samples. While the agency's safety assessment concluded an unlikely health concern associated with the PFAS levels detected, FDA has committed to continued research of this issue and created an interagency PFAS workgroup.

Previously, several consumer and environmental groups have expressed concerns that little data about the health risks of these chemicals found in food packaging are available or in the public domain so that independent scientists can examine it. Some of these groups have petitioned FDA to address potential flaws in how the agency estimates exposure to these chemicals.

FDA first allowed the use of perchlorates in food packaging in 2005. And, while several phthalates are banned in children's products in the United States, FDA has not banned the presence of these chemicals in foods. In contrast, Europe banned most phthalates for plastics in contact with baby food and fatty foods, including dairy products. In addition, bisphenol-A (BPA) in plastic bottles prompted Canada and a few European countries and U.S. states to regulate its use in children's food.

We would like GAO to address the following questions:

(1) Are the current actions being taken at the federal level appropriate steps to evaluate the prevalence and risk of chemical food contamination?

(2) What is known about the use and safety of chemicals used as indirect food additives; does FDA reassess the safety of existing indirect food additives; and what additional research, if any, is needed?

(3) To what extent does FDA coordinate its efforts in regulating chemicals used as indirect food additives with other federal agencies, including EPA and the U.S. Consumer Product Safety Commission, and what have been the results of these efforts?

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packaging. The chemicals migrate into food from food processing equipment like plastic tubing, conveyor belts and gaskets and other plastic materials used in the manufacturing process, and can also seep in from printed labels or plastic materials in the packaging.

[3] FDA defines indirect food additives as "any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have a technical effect in such food."

[4] *See* https://www.fda.gov/news-events/press-announcements/statement-fdas-scientific-work-understand-and-polyfluoroalkyl-substances-pfas-food-and-findings.

(4) What challenges, if any, does FDA face in regulating chemicals used as indirect food additives?

(5) What international regulations or standards, if any, exist for regulating chemicals used as indirect food additives and to what extent are those applicable to the United States?

Thank you for your attention to this important issue. If you have any questions, please contact Kelliann Blazek (Pingree) at 202-225-6116 or kelliann.blazek@mail.house.gov and Christian Lovell (DeLauro) at 202-225-3661 or christian.lovell@mail.house.gov.

Sincerely,

Chellie Pingree
Member of Congress

Rosa L. DeLauro
Chair
Subcommittee on Labor, Health and
Human Services, Education, and Related Agencies